

## Chapter 15

### **OFFENSES—MISCELLANEOUS\***

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\*Cross reference—Graffiti control, § 7-601 et seq.

## ARTICLE I. IN GENERAL

### Sec. 15-1. Drunkenness.

It shall be unlawful for any person to be drunk in any public place or place open to public view, or be on any public highway, in a state of drunkenness, or intoxication, or be on any private premises or in any private house in a state of drunkenness or intoxication, to the annoyance of any other person.

(Code 1961, § 18.7)

**Cross reference**—Alcoholic beverages in parks, § 16-26.

#### Sec. 15-1.1. Consuming alcoholic beverages on public streets, etc., or public property open to public view prohibited.

No person shall consume any alcoholic beverage in any quantity on any public street, avenue, sidewalk, stairway, alley or thoroughfare within the City of Belmont; nor shall any person consume any alcoholic beverage within fifteen (15) feet of any public way or thoroughfare while on a private stairway, doorway, or other private property open to public view without the express or implied permission of the owner, his agent, or the person in lawful possession thereof; provided, however, that the provision of this section shall not apply to the interior portion of any private dwelling, habitat or building, to the consumption by persons in the areas herein designated of any duly prescribed and dispensed medication having alcoholic content, or to those persons consuming alcoholic beverages while viewing a parade for which a permit has been granted pursuant to Belmont city ordinance. Further, this section shall not be applicable in those areas and during such time as the city council has granted permission for temporary use or occupancy of public streets and appurtenant areas pursuant to the city ordinances of Belmont.

(Ord. No. 651, § 1, 3-26-79)

**Editor's note**—Ord. No. 651, adopted Mar. 26, 1979, amended the Code by the creation of ch. 28, art. I, § 28-1. For purposes of classification, the editor has redesignated the provisions of § 1 of the ordinance as 15-1.1.

### Sec. 15-2. Escort service businesses.

*15-2-1. Purpose.* It is the purpose of the city council to regulate the operation of escort service businesses in the interests of public peace, health, safety and welfare.

*15-2-2. Permit Required.* It is unlawful for any person to operate an escort service business in the city, individually or through employees or independent contractors, without a permit from the city manager. Such a permit is personal and cannot be assigned.

#### 15-2-3. Definitions.

- (1) An *escort service business* means the business of providing escort service for hire on a temporary basis.
- (2) An *escort* is a person who, for compensation, accompanies another person to social affairs, entertainments, places of amusement, or eating places or who, for compensation, accompanies another person about any place of public resort or within any private quarters.
- (3) *For hire* means in return for the payment of money.
- (4) *On a temporary basis* means for less than twenty-four (24) hours.
- (5) An *employee* is a person from whom the operator of an escort service business withholds state and federal income taxes and social security taxes.
- (6) An *independent contractor* is a person who renders service to an operator of an escort

service business but from whom the operator does not withhold such taxes.

*15-2-4. Applications.* An applicant for a permit to operate an escort service business shall file with the bureau a written application setting forth:

- (1) The applicant's name, home address and home telephone number.
- (2) The address at which the applicant proposes to operate the escort service business, the name under which it is proposed to operate it and the telephone number thereof.
- (3) The applicant's previous addresses for the three (3) years prior to the applicant's moving to the applicant's present address.
- (4) Proof that the applicant's age is at least eighteen (18).
- (5) Applicant's height, weight, color of eyes and hair.
- (6) Two (2) portrait photographs of the applicant at least two (2) inches by two (2) inches taken within sixty (60) days of the date of application.
- (7) The applicant's business, occupation or employment for the three (3) years immediately preceding the date of application, including name and addresses of businesses and employees.
- (8) The applicant's previous experience in operating an escort service business.
- (9) Whether the applicant has previously had a business permit or license revoked and, if so, by whom, the date of revocation, and the reason for the revocation.
- (10) All criminal convictions except misdemeanor traffic violations.
- (11) Whether the applicant will consent to fingerprinting by the police department.
- (12) Whether the applicant will operate the escort service business individually, that is, without employees or through independent contractors, the operator of the business being the only escort.
- (13) Whether the applicant will employ other persons to act as escorts in the operation of the business and, if so, how many other such persons the applicant expects to employ.

(14) Whether the applicant will operate through independent contractors who act as escorts, and if so, the number of independent contractors through whom it expects to operate.

(15) Date of application.

(16) Signature of applicant. No application shall be made by, and no permit shall be issued to, a corporation or partnership.

*15-2-5. Investigation Fee.* Each application shall be accompanied by a nonrefundable one hundred dollar (\$100.00) investigation fee.

*15-2-6. Reference to Police Department.* The city manager shall refer each application to the police department, which shall make a written recommendation to the bureau to issue or deny the permit.

*15-2-7. Business License.* At the time of application for a permit, an applicant shall also apply for and furnish the information necessary to obtain a business license as required by chapter 12 of this Code. No business license shall be issued until the police department investigation is completed with and the department gives its approval to the issuance of the permit, and then it shall be issued on payment of the business license fee as provided in chapter 12 of this Code, together with the permit to operate the escort service business.

*15-2-8. Issuance or Denial of Permit.* On receipt from the police department of its investigation report, the city manager shall issue a permit if the police department in its report finds that the applicant has furnished all required information and that:

- (1) The character and responsibility of the applicant are satisfactory.
- (2) Operation of the business will comply with all applicable laws.
- (3) The applicant has not been convicted of a violation of California Penal Code sections 311 through 311.7, 314 through 316, 318 or 647(a), (b), (d) or (h), or California Health and Safety Code sections 11351 through 11354, 11358 through 11363, 11378 through 11380 or 11383.
- (4) The applicant has not been convicted of the use of force and violence upon another.
- (5) The applicant has not knowingly and with intent to deceive made any false, misleading

or fraudulent statement in his application or in any other document required to be submitted in conjunction with the application.

The permit shall be denied if all of the above findings are not made or if all required information has not been supplied. If the permit is denied, the reasons for the denial shall be endorsed on the application; and the city manager shall, by first class mail, notify the applicant of the denial with a copy of the application on which have been endorsed the reasons for the denial.

**15-2-9. Appeal.** If the application is denied, the applicant shall have ten (10) days from the date of mailing the notice of denial to appeal to the city council by filing a written application for a public hearing with the city clerk.

- (1) On receipt of the appeal, the city clerk shall set the matter for hearing before the council, at a regular meeting within thirty (30) days from the date of filing the appeal, and shall by first class mail give the applicant written notice of the hearing at least ten (10) days prior thereto.
- (2) At the date set, the council shall hear the appeal and may continue the hearing from time to time before reaching a decision. If the council finds the applicant met the requirements of this chapter, it shall order the city manager to issue the permit and the business license. If it finds that the requirements have not been met, it shall affirm the city manager's denial of the permit and license.

**15-2-10. Report on Employees.** Each operator of an escort service business shall, on the date of commencement of business, report in writing to the police department the name, age, home address and home telephone number of each person in the operator's employ on that date, and shall on each following April 1, July 1, October 1 and January 1 report in writing to the police department the name, age, home address and home telephone number of each person in the operator's employ during the preceding three (3) months. Failure to comply with this section shall be grounds for revocation of the permit.

**15-2-11. Report on Independent Contractors.** Each operator of an escort service business shall, on the date of commencement of business, report in writing to the police department the name, age, home address and home telephone number of each person the operator expects to engage as an independent contractor to act as an escort, and

shall on each following April 1, July 1, October 1, and January 1 report in writing to the police department the name, age, home address and home telephone number of each person whom the operator has engaged as an independent contractor during the preceding three (3) months to act as an escort. Failure to comply with this section shall be grounds for revocation of the permit.

**15-2-12. Pending Applications.** The provisions of this section 15-2 shall apply to each person who has pending with the city manager an application for a license to operate an escort service business.

**15-2-13. Revocation.** A permit to operate an escort service business shall be revoked by the city manager on notification from the police department to revoke it and the reason for revocation. Notice of the revocation and of the reason therefor shall forthwith be sent by the city manager to the permittee by first class mail. The permittee may appeal the revocation to the city council pursuant to the procedure provided in section 15-2-9 for appeal from a denial of a permit. The procedures there provided shall apply to the appeal. It is unlawful for any person to operate an escort service business following such revocation and until the permit has been restored.

(Code 1961, §§ 18-7-1—18-7-3; Ord. No. 699, § 1, 4-14-82)

### **Sec. 15-3. Certain fertilizers prohibited.**

It is hereby declared to be a nuisance and it shall be unlawful for any person to use as a fertilizer within the city any of the following fertilizers: Fishmeal; slaughterhouse refuse; bloodmeal; dried sewage sludge; hog manure; human fecal matter or deposits from privy pits and septic tank deposits. (Code 1961, § 18.8)

### **Sec. 15-4. Causing offensive odors.**

It shall be unlawful for any person to unload, discharge, deposit, import, deliver, possess or use any matter emitting noxious or offensive odors within the city; provided, however, that nothing in this section shall be deemed to prevent the hauling of such materials through the city; provided further, that nothing in this section shall prohibit the unloading of such material from railroad trains in the city for delivery outside the city; provided, however, that any person unloading

any of the materials mentioned herein for delivery outside the city must first secure a permit from the chief of police, who shall ascertain where the material is to be hauled and direct such person the route to be taken by them to their delivery destination. (Code 1961, § 18.9)

**Sec. 15-5. Speed of trains.**

It shall be unlawful for any engineer, fireman, brakeman, conductor or other person having any train or railroad cars or any part or section of any such train or any railroad locomotive or any engine under his charge, control or direction, in whole or in part, to run such train, section of train, locomotive or engine, or cause the same to be run on any railroads within the city at a speed exceeding thirty-five (35) miles per hour, between a point one hundred (100) yards north of the center of Ralston Avenue at its intersection with the railroad tracks and a point one hundred (100) yards south of the center of Harbor Boulevard at its intersection with the railroad tracks. (Code 1961, § 18.9-1)

**Sec. 15-6. Rock crushing.**

(a) *Findings.* It is found by this city council and declared that:

- (1) The making, causing or creation of loud or unusual noise and annoying vibrations of earth within the city, especially unnecessary or unusual noises which are repetitious or prolonged in time and which offend or may offend the peace and quiet of persons of ordinary sensibilities, or the spreading, or causing to spread of dust through the atmosphere are detrimental to public health, comfort, convenience and welfare of the residents of the city and especially to those residents within a short distance of the point of origin of such noises or source of vibration or spreading of dust; and
- (2) The necessity in the public interest for the prohibitions herein enacted is declared as a matter of legislative determination and public policy, and it is further declared that the prohibitions herein contained and enacted are in

pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and the peace and quiet of the city and its inhabitants.

(b) *Prohibited.* It shall be unlawful for any person to maintain, operate or conduct the crushing of any rock or stone by any mechanical device or machinery or machine within the city. (Code 1961, §§ 18.10, 18.11)

**Sec. 15-7. Fireworks and explosives—Discharging.**

It shall be unlawful for any person to fire or discharge within the city, or to cause to be fired or discharged, within the city, any firecrackers, fireworks of explosive nature or explosives of any kind whatsoever, excepting in accordance with the provisions of this article. (Code 1961, § 11.8; Ord. No. 561, § 1, 6-9-75)

**Sec. 15-8. Same—Blasting permits.**

Before any person may discharge within the city any explosives of any kind whatsoever, a written application for a permit to do so shall first be filed with the city clerk who shall refer the same to the city council at its next meeting or any subsequent meeting. Before any permit may be issued pursuant to such application, the city council shall fix the amount of a bond to be given by the applicant with a corporate surety authorized to execute such bonds in the state in such penal sum as the city council may prescribe as adequate in its judgment to cover any possible damage to real or personal property of any property owner or person within the city, and shall also require the applicant to furnish the services of a blasting expert who is approved by the city engineer as a person qualified for such expert services, and such applicant shall agree to do no blasting or explode no explosives, excepting while such expert is present and personally superintending such use of explosives at the time of the preparation and use thereof. When such expert is provided and such bond has been filed, the city clerk may upon direction of the city council issue a permit for such use of explosives and such permit shall be limited to the time necessary to carry on such use of

explosives in accordance with the direction of the city council. (Code 1961, § 11.9)

**Sec. 15-9. Sales to or possession of fireworks by minors restricted.**

(a) It is unlawful to sell fireworks of any kind or nature to persons under the age of fourteen (14) years.

(b) It shall be unlawful for any person under the age of fourteen (14) years to have fireworks of any kind or nature in their possession except in the presence of a supervising adult person of the age of eighteen (18) years or more. (Code 1961, § 11.8.1; Ord. No. 561, §§ 2, 3, 6-9-75)

**Sec. 15-10. Mistreatment of or interference with police dogs.**

It shall be unlawful for any person to willfully or maliciously torment, torture, beat, kick, strike, mutilate, injure, disable or kill any dog used or under the control of the Belmont Police Department in the performance of the function or duties of the department, or to interfere with any such dog while being used or under the control of said Belmont Police Department and/or its officers, agents, employees or duly appointed representatives. (Ord. No. 635, § 1, 9-11-78)

**Secs. 15-11—15-19. Reserved.**